

PR Solid Waste Regulation Issue Summary

- In addition to the serious landfill compliance issues that have required EPA to take direct enforcement at 5 landfills so far, there is another serious situation concerning Puerto Rico's solid waste management regulations.
- The RA wrote the Governor concerning this in a letter dated October 5, 2006.
- In 1997 EQB drastically changed its solid waste regulations such that they no longer meet minimum federal standards.
- The major changes of 1997 need to be rescinded and the correct standards restored to meet federal standards.

(For reference, please find a list of some of the highest priority major deficiencies that EPA has identified, below):

- 1) The definition of lateral expansion has been changed to apply to an entire property, not just the portion used for waste disposal as of the mid-90s effective date of the regulations. This means a pre-existing landfill, no matter how small in the mid-90s can continue to expand under the now existing EQB regulations without having to comply with liner, leachate or other requirements of Part 258 that were mirrored acceptably in the 1993 regulations.
- 2) The requirement that a professional engineer certify to closure and post-closure has been eliminated, thus removing a key professional requirement from the technical construction practices for landfill closure.
- 3) Similarly, there is no educational degree requirement or professional licensing requirement in the 1997 regulations involved with hydrology and ground water monitoring.
- 4) The limit for the hydraulic conductivity of a composite liner for new or expanded landfill cells has been made very much less stringent than the Part 258 criteria, which had been incorporated into the 1993 regulations. The difference is a factor of 100, e. g. 1×10^{-7} was changed to 1×10^{-5} .
- 5) The applicability of financial assurance requirements has been changed so that municipalities no longer must supply such assurances. Since ninety percent or so of Puerto Rico landfills are owned by municipalities,

this change completely eviscerates the effectiveness of the financial assurance requirement.

- 6) The definition of "existing solid waste facility" has been changed so that arguably any facility in operation after October 7, 1993 can claim exemption from requirements for new or expanded landfills (this result may be inadvertent and EQB retains permitting authority but the definition is fatally defective all the same).